

FINAL REPORT CODE ENFORCEMENT PROGRAM AND ACTIVITIES OF THE TOWN OF RAMAPO

I. Purpose of this Final Report

The purpose of this final report is to provide observations based upon the Department of State's oversight activities in the Town of Ramapo (the Town).

Executive Law §381 provides that the Secretary of State (the Secretary) shall promulgate rules and regulations prescribing the minimum standards for administration and enforcement of the Uniform Fire Prevention and Building Code (the Uniform Code) in local governments. The regulations, including Part 1203 and Part 1208 of Title 19 of the Official Compilation of Codes Rules and Regulations of the State of New York (19 NYCRR 1203 and 19 NYCRR 1208), establish the minimum standards to be used in administering and enforcing the Uniform Code (the minimum standards). Executive Law §381 also gives the Secretary the authority to investigate code enforcement programs in all local governments or counties charged with the administration and enforcement of the Uniform Code.

The Town is responsible for enforcing the Uniform Code with respect to buildings located within the Town. The Town, located in Rockland County, is comprised of 61 square miles and has a population of approximately 133,000 residents.¹

This final report summarizes the review conducted by the Department of State's Division of Building Standards and Codes (the Division) of the current code enforcement program in the Town and the administration and enforcement of the Uniform Code in the Town. The final report contains information compiled from the observations of the Oversight Officer between December 2016 and the present.

II. History of the Division's Review

a. Information gathered prior to First Order

i. Materials provided by the Town

November 5, 2013 – By letter, the Division requested that the Town's Building Department provide information relative to eight (8) specific properties identified by the Rockland County Illegal Housing Task Force

¹ There are eleven (11) villages within the Town of Ramapo that each have their own code enforcement program. However, the Town of Ramapo performs plan review and constructions inspections with respect to building permits submitted within the Village of New Hempstead. Therefore, although there are approximately 133,000 residents in the entire Town of Ramapo, the Town of Ramapo's Building Department only performs code enforcement services for approximately 50,000 residents.

(the Task Force), where it was asserted that the Uniform Code was not properly enforced.

December 6, 2013 – By letter, the Division requested that the Town provide further documents and information and asked for the Town's cooperation in facilitating the Division's full and thorough review of the Task Force's complaints.

January 28, 2015 – By letter, the Division notified the Town Supervisor of certain specific and general deficiencies in the Town's administration and enforcement of the Uniform Code. The following were the preliminary findings:

1. The Town has not complied with the minimum standards relating to building permits and applications for building permits.
2. The Town has not complied with the minimum standards relating to certificates of occupancy and temporary certificates of occupancy.
3. The Town has not complied with the minimum standards relating to periodic fire safety and property maintenance inspections.
4. The Town has failed to exercise its code enforcement powers in a due and proper manner so as to extend to the public protection from the hazards of fire and inadequate building construction (19 NYCRR 1203.2(d)).
5. The Town has failed to comply with certain other minimum standards, including, but not limited to, the maintenance of an appropriate system of records of the Town's code enforcement program.

The Division directed the Town to provide a response within ten (10) days setting forth how each of the preliminary findings has been addressed, or alternatively, disputing any of the facts or preliminary findings.

February 12, 2015 – By letter, the Town's Director of the Building Department, Anthony Mallia, provided a partial response to the preliminary findings in the Division's letter dated January 28, 2015.

October 28, 2015 – By letter, the Division requested further information and documentation relative to the eight (8) properties identified by the Task Force and to meet with the Town's Building Department staff.

ii. Field Observations

January 16, 2014 – The Division staff conducted site visits of two properties that were randomly selected from the eight (8) specific properties identified by the Task Force.

1. 93 College Avenue was not being utilized for its intended use (one-family dwelling), but as a non-public school with residential accommodations, and the issuance of a temporary certificate of occupancy does not relieve the property of the requirements of the Uniform Code.
2. 992 Haverstraw was not being utilized for its intended use (one-family dwelling), but as a non-public school with residential accommodations, and the issuance of a temporary certificate of occupancy does not relieve the property of the requirements of the Uniform Code.

February 10, 2014 – The Division staff visited the Town's Building Department to review the files for each of the eight (8) specific properties identified by the Task Force and conducted site visits.

September 24, 2014 – The Division staff met with Town's Building Department to receive an update on the eight (8) specific properties identified by the Task Force.

November 9, 2015 – The Division staff met with the Town's Building Department staff to receive an update on the eight (8) specific properties identified by the Task Force.

b. The First Order

April 18, 2016 – The Executive Deputy Secretary of State² issued a First Order pursuant to Executive Law §381(4) compelling the Town to comply with the minimum standards for administration and enforcement of the Uniform Code. The Executive Deputy Secretary of State determined that the Town was not complying with the minimum standards relative to:

1. Issuing building permits and applications for building permits, as set forth in 19 NYCRR §1203.3(a);
2. Conducting construction inspections, certificates of occupancy, temporary certificates of occupancy, and suspension or revocation of certificates of occupancy, as set forth in 19 NYCRR §1203.3(b) and §1203.3(d);

² Secretary of State Cesar A. Perales resigned the office of New York State Secretary of State as of February 5, 2016 and, upon resignation, all powers and duties of the New York State Secretary of State passed to Executive Deputy Secretary of State Anthony Giardina pursuant to Executive Law §92 and Public Officers Law §9.

3. Conducting fire safety and property maintenance inspections, procedures for identifying and addressing unsafe structures and equipment, and exercising its code administration and enforcement powers in a due and proper manner, as set forth in 19 NYCRR §1203.3(h), §1203.3(f), and §1203.2(d); and
4. Establishing and maintaining a system of records of the Town's activities relating to the code enforcement features described in subdivisions (a) to (i) of 19 NYCRR §1203.3, as required by 19 NYCRR §1203.3(j).

c. Information Gathered After the First Order

i. Materials provided by the Town

April 28, 2016 – The Town's Director of the Building Department provided a partial response to the First Order issued by the Secretary.

May 17, 2016 – The Town's Director of the Building Department provided a further partial response to the First Order issued by the Secretary.

June 1, 2016 – The Town's Director of the Building Department provided the first monthly report of the parcels from the Inspection List that had been inspected in the previous month, pursuant to the First Order issued by the Secretary.³

July 15, 2016 – By letter, the Executive Deputy Secretary of State informed the Town that the April 28, 2016, May 17, 2016, and June 1, 2016 responses were deficient and further established that the Town was not administering and enforcing the Uniform Code in accordance with the minimum standards. The Division requested additional information and documentation from the Town and that the Town's inspectors be made available to conduct inspections accompanied by the Division staff. The purpose of the joint inspections was to observe the Town's inspectors perform property maintenance and fire safety inspections of certain buildings in the Town.

July 29, 2016 – The Town's Director of the Building Department provided a partial response to the Division's correspondence dated July 15, 2016.

ii. Field Observations

August 2, 2016 – Leadership from the Department of State and Division met with the Town's Director of the Building Department and counsel to discuss the Town's July 29, 2016 partial response and to set up future observational visits by staff.

³ The Town's Building Department has continued to provide the requested monthly reports on the first of the month from June 1, 2016 to the present.

Week of August 15, 2016 – The Division staff accompanied the fire inspector and the building inspector to ten (10) properties including single family dwellings, multi-family homes, non-public schools, places of worship, and places offering daycare services.

August 22, 2016, August 29, 2016 – The Division staff conducted site visits on two (2) days and accompanied inspectors to eight (8) properties. During these site visits, the Division staff interviewed employees of the Town's Building Department, reviewed files, and accompanied employees of the Building Department on site visits and inspections.

November 18, 2016 – The Division staff met with the Building Department staff to provide technical assistance and conduct site inspections with respect to specific properties that had final inspections which revealed variances from the Uniform Code were necessary before valid certificates of occupancy could be issued.

d. Oversight Officer

December 20, 2016 – The Town of Ramapo and the Department of State executed a Memorandum of Agreement outlining the terms governing the Department of State's designation of an Oversight Officer who since December 22, 2016 has been overseeing the Town's activities relating to the administration and enforcement of the Uniform Code.

January 10, 2018 – The Department of State issued an Updated Work Plan to the Town of Ramapo with recommendations to address four (4) specific deficiencies noted by the Department of State and for the Town to provide a strategic plan for working towards full compliance with the Minimum Standards.

March 2, 2018 – The Town of Ramapo provided a Response to Updated Work Plan to the Department of State addressing the four (4) specific deficiencies noted by the Department of State within the Updated Work Plan issued on January 10, 2018 and providing the Town's strategic plan for working towards full compliance with the Minimum Standards.

III. Current Observations and Findings

a. Periodic Fire Safety and Property Maintenance Inspections

The Minimum Standards require each local government (city, town or village) that is responsible for administering and enforcing the Uniform Code to establish a code enforcement program and to include in that program provisions requiring (1) fire safety and property maintenance inspections of buildings which contain an area of public assembly at intervals not to exceed one year and (2) fire safety and property maintenance inspections of all multiple dwellings and all nonresidential

occupancies at intervals consistent with local conditions, but in no event shall such intervals exceed one year for dormitory buildings and three years for all other buildings. See 19 NYCRR §1203.3(h).

The Town's Local Law No. 3 of 2016 amending Section 144-40A of the Fire Prevention Chapter of the Ramapo Town Code requires fire safety and property maintenance inspections at the intervals required by 19 NYCRR §1203.3(h).

Based upon the Oversight Officer's observations from January 2018 to the present, the Town asserts that all assembly occupancies, primarily in non-public school buildings, have been inspected in the past year. Town code officials indicate that it is their goal to continue to conduct annual inspections of all such buildings as required.

The Town continues to maintain and update an inventory of buildings containing an area of public assembly and of dormitory buildings, and is continuing to work with Municipality to correct and fine-tune their software to better suit the needs of the department. In addition, the Town Building Department has expanded training of all staff on the Municipality software.

The Town continues to maintain and update an inventory of all buildings required to be inspected at least once every thirty-six (36) months and they have inspected approximately one-third (1/3) of them during the current year, including approximately one-third of the multiple dwellings buildings. The inventory is updated as new projects are completed and occupied.

Based upon the Oversight Officer's observations from December 2016 to the present, the current form that the Town Building Department uses to conduct fire safety and property maintenance inspections is a checklist that contains the location of the building, the name of the inspector, the date of the inspection, and notes of any violations identified by the inspector. There is a section for each item that can be checked "pass", "fail", or "NA".

To help ensure accurate and thorough school inspections, 2 inspectors are present at each initial inspection, and they employ the checklists, photographs, and individual note-taking.

The Town takes appropriate enforcement actions when inspections reveal violations of the Uniform Code in accordance with 19 NYCRR §1203.2(d). For example, in spring 2018, inspections of a non-public school at 70 Highview, revealed numerous violations. Thereafter, the Town Building Department took appropriate steps and issued violation notices, and subsequently commenced an enforcement action for unapproved construction of a small addition.

Accordingly, based upon the current observations of the Oversight Officer, the Town is demonstrating compliance with the Minimum Standards with respect to periodic fire safety and property maintenance inspection.

b. Other Types of Inspections

Complaint-Generated Inspections

The Minimum Standards provide that each local government must include in its code enforcement program procedures for addressing bona fide complaints which assert that conditions or activities fail to comply with the Uniform Code or with local laws, ordinances, or regulations adopted for administration and enforcement of the Uniform Code. The process for responding to such complaints must include, when appropriate, provisions for inspection of the conditions and/or activities alleged to be in violation of the Uniform Code or the local laws and/or regulations adopted for administration and enforced of the Uniform Code. See 19 NYCRR 1203.3(i).

Based upon the Oversight Officer's observations from January 2018 to the present, the Town Building Department has developed and implemented procedures for addressing bona fide complaints. For example, complaints from the Task Force are received via email, logged in, and typically assigned to either a fire inspector or code enforcement officer. Similarly, a complaint of an illegal school was verbally received at the end of July 2018. Appropriate inspections were conducted resulting in an appearance ticket being immediately issued, and although the premises have been vacated as of August 21, 2018, the inspector is not withdrawing the complaint, and is in court Monday August 27, with a recommendation to adjourn in contemplation of dismissal.

Accordingly, based upon the current observations of the Oversight Officer, the Town is demonstrating compliance with the Minimum Standards with respect to complaint-generated inspections.

Permit/Construction Inspections

19 NYCRR §1203.3(b) requires a municipality to provide for inspections at various stages of construction when a building permit has been issued and prior to the issuance of a certificate of occupancy. Inspections must be performed to observe and verify code compliance of the following elements:

- (i) work site prior to the issuance of a permit;
- (ii) footing and foundation;
- (iii) preparation for concrete slab;
- (iv) framing;
- (v) building systems, including underground and rough-in;
- (vi) fire resistant construction;
- (vii) fire resistant penetrations;

- (viii) solid fuel burning heating appliances, chimneys, flues or gas vents;
- (ix) energy code compliance; and
- (x) a final inspection after all work authorized by the building permit has been completed.

Based upon the Oversight Officer's observations from January 2018 to the present, during which a number of construction sites were visited, inspectors are less likely to observe violations during construction inspections, as building plans are being properly reviewed and approved for compliance with the Uniform Code at the time the building permit had been issued.

Based upon the Oversight Officer's observations from December 2016 to the present, there is an improvement in the communication between the fire inspection staff and the building permit staff of the Town's Building Department. The Building Inspector and Fire Inspector are working closely together.

Accordingly, based upon the current observations of the Oversight Officer, the Town is demonstrating compliance with the Minimum Standards with respect to permit and/or construction inspections.

c. Permitting

Building Permit Application Procedures

Based upon the Oversight Officer's observations from December 2016 to the present, there currently is no significant backlog with respect to building permit applications.

Since December 2016, the Town has implemented the use of standard plan review checklists where applicable. Building permit applications are provided to customers by the Town Building Department staff. Upon receiving a completed application, it is turned over to the Building Inspector for examination and authorization to issue a permit. The Building Inspector works closely with his staff, sharing this task with the assistant building inspectors and fire inspectors. The Oversight Officer has reviewed several plan reviews, both in progress and completed, including for school and multiple dwelling projects, and found them to be thorough and complete. Staff frequently makes use of the Department of State's Division of Building Standards and Codes Technical Support Unit.

Applications are also referred to the Community Design Review Committee, Planning, Zoning, and the Department of Public Works as necessary.

The Town previously retained LaBerge Group [planning and engineering consultants] out of Albany NY, to assist with respect to planning and zoning, as well as utilizing other third-party plan review services which helped to clear the prior significant backlog.

The Town hired a Director of Planning and Zoning, Michael Klatsky, which has allowed the Building Inspector to concentrate on Uniform Code-related issues. The 2 assistant building inspectors hired in 2017 completed their basic training as required under 19 NYCRR Part 1208 and have their 24 hours of continuing education for 2018.

Accordingly, based upon the current observations of the Oversight Officer, the Town is demonstrating compliance with the Minimum Standards with respect to building permit application procedures.

Operating Permits

Based upon the Oversight Officer's observations from December 2016 to the present, the Town has been issuing operating permits in accordance with the local law filed with the Department of State on December 7, 2016 which added §376-1417 to the Town's Zoning Chapter to include a section on operating permits, as required by 19 NYCRR §1203.3(g). Operating permits are likely only to be required for public assemblies, as there are no known other regulated activities within the Town borders (i.e. manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the Uniform Code; hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling; or use of pyrotechnic devices in assembly occupancies). The Town indicated that as fire safety and property maintenance inspections are conducted, additional operating permits will be required when any such activities are discovered.

It will probably be a multi-year effort to achieve a total comprehensive level of success in light of the Town's periodic fire safety and property maintenance inspection cycle. It is anticipated that the newly required Operating Permit inspections will result in over sixty (60) inspections per year when fully operational. Operating permits which were reviewed by the Oversight Officer appeared to be appropriate and in good order.

Accordingly, based upon the current observations of the Oversight Officer, the Town is demonstrating compliance with the Minimum Standards with respect to operating permits.

Certificates of Occupancy and Temporary Certificates of Occupancy

Based upon the Oversight Officer's observations from December 2016 to the present, the Town's current local laws provide for the issuance of certificates of occupancy, temporary certificates of occupancy, and certificates of compliance which are consistent with 19 NYCRR §1203.3(d) and such certificates were observed in various completed Town records in the Building Department.

Accordingly, based upon the current observations of the Oversight Officer, the Town is demonstrating compliance with the Minimum Standards with respect to certificates of occupancy and temporary certificates of occupancy.

d. Enforcement

19 NYCRR 1203.3(a) requires the Town to provide for such administration and enforcement of the Uniform Code and the Energy Code by local law, ordinance or other appropriate regulation, or combination thereof, and must include the features described in 19 NYCRR §1203.3.

Based upon the Oversight Officer's observations from December 2016 to the present, the Town continues to update, improve, and amend their local laws as deficiencies come to light. For example, since December 2016, the Operating Permit requirements were added and the required periodic fire inspection intervals were aligned with 19 NYCRR §1203.3(h).

A moratorium was put in place against the use of "Temporary Modular" schools, which have been replaced with "phased" project approvals, to allow occupancy of less-permanent structures during construction of the final permanent building. However, the lack of understanding of the difference between zoning regulations and the Uniform Code is still a primary source of complaints against the Town.

Accordingly, based upon the current observations of the Oversight Officer, the Town is demonstrating compliance with the Minimum Standards with respect to enforcement.

e. Coordination With Other Emergency Service Entities

Exhibit F of the Town's July 29, 2016 response provided a proposed amendment to Local Law No. 6-1997 and the amended local law was indeed filed with the Department of State on October 11, 2016. The amended local law revised §144-12 of the Fire Prevention Chapter of the Town Code by adding paragraph C which requires the fire departments to notify the Town's Chief of the Bureau of Fire Prevention when there has been a fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

Accordingly, based upon the current observations of the Oversight Officer, the Town is demonstrating compliance with the Minimum Standards with respect to coordination with other emergency service entities.

f. Operations of the Buildings Department

Staffing

Based upon the Oversight Officer's observations from December 2016 to the present, the Town's Building Department is manned by the Building Inspector and his staff.

There have been changes to the staff in an effort to improve the code enforcement program. On June 28, 2017, the Ramapo Town Board accepted the resignation of the Chief Building Inspector Anthony Mallia. Ian Smith, formerly the Deputy Building Inspector, was appointed Building Inspector. Subsequently, there have been two (2) Assistant Building Inspectors and one (1) clerk hired. A Director of Planning and Zoning, Michael Klatsky, was also brought on board.

Training Needs

Building Department staff has completed the basic training requirements prescribed in 19 NYCRR Part 1208 and has obtained a minimum of 24 hours of in-service training during the past calendar year. The two (2) Assistant Building Inspectors that were hired since December 2016 completed their basic training and Assistant Fire Inspector Joseph Tiso is certified as a Building Safety Inspector.⁴

Based upon the Oversight Officer's observations from December 2016 to the present, the Town's Building Department staff's familiarity with how to use the 2016 supplement in conjunction with the 2015 International Codes has improved. In addition, the Town's Building Department staff has improved the process of issuing violation notices by including citations to code section references. The inclusion of citing specific code sections within violation notices helps to provide clarity to both the property owner and the Town in accordance with the Minimum Standards.

The Oversight Officer notes that the Building Inspector occasionally accompanies the Assistant Building Inspectors and the Fire Inspector occasionally accompanies the Assistant Fire Inspectors to review the inspection process.

Based upon the Oversight Officer's observations from December 2016 to the present, the Town has encouraged residents to utilize the variance procedures in accordance with 19 NYCRR Part 1205, particularly in cases where construction is underway and deficiencies were noted. For example, there have been several routine variances granted by the Department and cases heard by the Boards of Review.

Fees

Fees for various activities administered by the Town Building Department are established by local laws. The fee schedule has been updated in accordance with the Town's Standard Schedule of Fees but is under further review. Currently, fees

⁴ Pursuant to 19 NYCRR Part 1208, Building Safety Inspectors are required to obtain a minimum of 6 hours of in-service training each calendar year.

are collected by the Town Building Department clerical staff and brought to the Finance Department for further processing.

Recordkeeping

19 NYCRR 1203.3(j) provides that the Town must establish and maintain a system of records of the features and activities specified in subdivisions (a) through (i) of 19 NYCRR 1203.3 and of fees charges and collected, if any.⁵

Based upon the Oversight Officer's observations from December 2016 to the present, records pertaining to code enforcement activities were cramped, disorganized, and haphazard. After reviewing several options, including utilizing high-density storage, all records are currently being digitally scanned, including drawings and documents, and are being electronically attached to each parcel for instant retrieval. Original paper files are being archived outside of the Department.

In addition to the reorganization of the pertinent records in the filing system, the Town uses the Muncity software permitting, tracking, and recordkeeping system to supplement the files. Histories on any specific property are accessible through this software, making retrieval of data mostly quick and efficient. With enhanced training of staff, use of this system has become more consistent throughout the Department.

Program Reporting

19 NYCRR §1203.4 requires that every city, village, town, and county charged under subdivision 2 of section 381 of the Executive Law with administration and enforcement of the Uniform Code shall annually submit to the Secretary of State, on a form prescribed by the Secretary, a report of its activities relative to administration and enforcement of the Uniform Code. The Town has submitted the 2017 report to the Department.

Accordingly, based upon the current observations of the Oversight Officer, the Town is demonstrating compliance with the Minimum Standards with respect to the operations of the Building Department.

⁵ 19 NYCRR 1203.4(b) provides that "(u)pon request of the Department of State, every municipality or other agency subject to this Part shall provide from the records and related materials it is required to maintain excerpts, summaries, tabulations, statistics and other information and accounts of its activities in connection with administration and enforcement of the Uniform Code. Failure to produce the requested materials shall permit an inference that the minimum standards of this Part have not been met."

IV. Recommendations to the Secretary

Based upon the Oversight Officer's observations from December 2016 to the present, the Oversight Officer and the Division of Building Standards and Codes recommend that the Secretary find and determine that the Town has demonstrated compliance with the Minimum Standards. Currently, there does not appear to be a need to continue the activities of the Oversight Officer who was designated to oversee the Town's activities relating to administration and enforcement of the Uniform Code and Energy Code. Accordingly, it is recommended that the Memorandum of Agreement executed on December 20, 2016 between the Department of State and the Town of Ramapo be terminated by the Secretary and that the Town of Ramapo be subject to normal oversight procedures of the Department of State, as applied to local governments statewide.